

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14598, of Norman R. Hall (the "Applicant"), pursuant to Paragraph 8207.11 (3107.2, DCMR 11) for a variance under Section 3102.3 (300.3, DCMR 11) to allow conversion of a single family dwelling to use as an office facility in an R-2 District at premises 3215 Martin Luther King Avenue, S.E., (Square 5990, Lots 7 and 8).

HEARING DATE: June 10, 1987

DECISION DATE: June 10, 1987 (Bench Decision)

FINDING OF FACTS:

1. The site is located on the west side of Martin Luther King Avenue, S.E. between Esther Place and Waclark Place and is known as premises 3215 Martin Luther King Jr. Avenue, S.E. It is located in an R-2 District.

2. The site is rectangular in shape and generally flat. The site consists of two lots which are currently developed with a two-story structure, constructed in approximately 1900, fronting on Martin Luther King Jr. Avenue and a five car garage accessed from the public alley to the rear.

3. The subject site is located within 100 feet of a C-2-A District which continues along the Martin Luther King Jr. Avenue frontage to the east for approximately six blocks, until it meets federally owned property occupied by St. Elizabeth's Hospital. Adjacent to the site to the north are two structures housing non-conforming flats, a single-family dwelling, and a fire house located in the C-2-A District. To the south of the premises are two structures housing community residence facilities. To the east across Martin Luther King Avenue are new row dwellings in the R-4 District. Further north of the fire house and the row dwelling development are convenience stores and other commercial uses in the C-2-A District fronting on Martin Luther King Avenue. To the west, across a public alley from the site, are two-story single family dwellings in the R-2 District.

4. The Applicant proposes to use the premises as offices for a construction company. Office use is not permitted in the R-2 District.

5. The proposed operation of the facility currently consist of two employees, the Applicant and a secretary. The nature of the business requires personal visits to construction sites in the area by the Applicant. The hours of operation will be from approximately 8:30 A.M. to 6:30 P.M., Monday through Friday. There will be infrequent client visits to the site. The number of clients per visit would not normally exceed two. The majority of client meetings occur off-site. Visitors and employees will use the existing five car garage for parking. All materials for jobs contracted by the Applicant are delivered to the work site. All employees, other than the Applicant and secretary, report directly to the work site rather than to the subject premises.

6. The Applicant purchased the subject premises in June, 1986 for use as office space. At the time of purchase, the structure was boarded-up and had been vacant for approximately eight years. The previous owner had begun renovation work which was not completed prior to his death in April, 1985. The structure was essentially gutted and uninhabitable at the time of purchase due to the unfinished condition of the structure, the proposed use of the premises could not be identified readily.

7. The majority of the Applicant's construction contracts involves government contracted renovation of public housing sites and economic development projects in Southeast Washington. The Applicant expects that the majority of his business will continue in the Anacostia area until government goals of revitalization for the Anacostia area are realized.

8. Based on representations that the property was suitable for office space put forth by the real estate agent and because of the gutted condition of the premises at the time of purchase, the existence of a five-car garage on the site, and the Applicant's perception of the site as suitable for commercial use due to pre-ponderance existing commercial development in the immediate area, the applicant purchased the property for office use and made extensive interior and exterior renovations to the structure for office use. The Applicant did not become aware that the property was not zoned inconsistent with his proposed use until his application for a certificate of occupancy was denied. The Applicant immediately filed for appropriate zoning relief.

9. The District of Columbia Government has an adopted public policy proposal to establish development zones east of the Anacostia River. This public policy seeks to direct growth toward areas most in need of jobs and economic development. The subject site is on the periphery of the identified development area known as the Anacostia Development zone. The site is conveniently accessible to the remaining

identified development zones known as the D.C. Village Development Zone and the Alabama Avenue Development Zone. The location of the site near the proposed development zones will help to facilitate the applicant's provision of service to the District and Federal Governments and, therefore, will help to implement the goals set for in the public policy proposal.

10. The Applicant argued that the proposed use will, in itself, further the achievement of the aforementioned policy objectives in that a previously vacant building will be converted to productive use, the use will provide employment and job training opportunities in an economically deprived area.

11. The Office of Planning (OP), by memorandum dated June 2, 1987, recommended that the application be denied. The OP was of the opinion that the applicant did not meet the test for a use variance relief. The Board does not concur with the recommendation of the OP.

12. Advisory Neighborhood Commission (ANC) 8C did not submit a formal written recommendation on the application. The record does contain a memo, dated June 9, 1987, signed by the Chairman of the ANC stating that the ANC had no objection to the requested variance, provided that the applicant refrain from parking trucks in front of the premises. The Board is not required to accord "great weight" to the recommendation of the ANC.

13. The record contains a petition supporting the requested relief signed by forty area residents.

14. Persons who sought to submit evidence in favor of or opposition to the application were provided an opportunity to do so.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the Applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner arising out of some peculiar or exceptional condition inherent to the property so that it cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map.

The Board concludes that the Applicant has provided sufficient proof to establish an undue hardship inherent in the property. The site consists of two lots developed with a two-story structure and five-car garage. The undefined layout of the interior of the premises and lack of plumbing and electrical fixtures at the time of purchase of the premises did not strongly suggest that the premises were suitable for single-family residential use. The existing five-car garage further deviates from an accessory use normally associated with a single-family dwelling. The existing structure was constructed in the early 1900's, predating the 1958 Zoning Regulations. Renovation of the structure for a single-family would be economically infeasible. The location of the premises are in close proximity to commercial uses and immediately adjacent to an existing nonconforming use would pose a hardship upon the owner to develop the property for a economically feasible permitted use. The Board concludes that the premises are not reasonably suitable or amenable to conversion to a single-family dwelling or any other use permitted in an R-2 District.

The subject property had been vacant and boarded up for eight years. The Board is of the opinion that the proposed use will not only eliminate an unwanted, dangerous eyesore, but will also have a positive impact on the community by introducing a small, unobstrusive and viable minority business whose major emphasis is on the redevelopment, rehabilitation and revitalization of the Anacostia area in accordance with the policy guidelines of the District of Columbia Government.

The Board concludes that the requested relief can be granted without substantial detriment to the public good. The Board further concludes that the variance can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. Accordingly, it is ORDERED that the application for use of an office is GRANTED.

VOTE: 3-1 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; William F. McIntosh opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Acting Executive Director

FINAL DATE OF ORDER: JUN 22 1937  
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UNDER SUB-SECTION 3102.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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